

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY AND MIDAMERICAN ENERGY COMPANY	DOCKET NOS. SPU-02-21 SPU-02-23
---	------------------------------------

**ORDER ACCEPTING FILINGS, COMMENCING INVESTIGATION,
NOTICE OF HEARING, AND ORDER SETTING
PROCEDURAL SCHEDULE, INTERVENTION DEADLINE,
EXTENDING DECISION DEADLINE, AND CONSOLIDATING DOCKETS**

(Issued February 6, 2003)

On November 26, 2002, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) an application for reorganization pursuant to Iowa Code §§ 476.76 and 476.77 to transfer ownership of IPL's transmission facilities to TRANSLink Transmission Company, L.L.C. (TRANSLink), a proposed independent transmission company. As part of the filing and pursuant to the Board's May 28, 2002, order in Docket No. M-150, IPL submitted its delineation of transmission and distribution facilities using the seven-factor test developed by the Federal Energy Regulatory Commission (FERC).

On December 18, 2002, MidAmerican Energy Company (MidAmerican) filed an application for reorganization. MidAmerican plans to transfer functional control of its transmission facilities to TRANSLink. The Board has previously addressed the delineation of MidAmerican's transmission and distribution facilities. MidAmerican

Energy Company, "Order Recommending Delineation of Transmission and Local Distribution Facilities," Docket No. SPU-98-12 (April 30, 1999).

Because much of the testimony in the IPL and MidAmerican filings is duplicative, IPL and MidAmerican asked that the dockets be consolidated for purposes of any hearing. To facilitate consolidation, on December 23, 2002, IPL filed a motion to withdraw and reinstate its application for reorganization. IPL asked that it be allowed to withdraw its application and have it reinstated as of December 18, 2002, the same date MidAmerican filed its application. The Board granted the motion by order issued December 23, 2002, so that the statutory review period and other time limitations contained in Iowa Code § 476.77 and 199 IAC chapter 32 would be identical for both proceedings. The Board will grant the motion to consolidate the dockets for purposes of any hearing and procedural schedule.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to the applications for reorganization on January 27, 2003. Consumer Advocate also filed testimony in support of its objection, but reserved the right to offer additional testimony and evidence pursuant to 199 IAC 32.9(1) and the procedural schedule established by the Board. Consumer Advocate, among other things, objects to IPL's proposed delineation of transmission facilities, to any recovery from Iowa ratepayers of a return on equity for transmission facilities that is not limited to the state authorized return, and to the transfer of ownership of transmission facilities to TRANSLink. While MidAmerican does not presently plan to transfer ownership to TRANSLink, like IPL, MidAmerican asks for

Board approval for such a transfer at some later, unspecified time under terms and conditions that have not yet been established.

The Board has reviewed IPL's and MidAmerican's filings and finds that they substantially comply with the filing requirements contained in 199 IAC 32.4. Therefore, the Board will accept the filings. However, questions exist regarding the proposed reorganization that necessitate further investigation and a hearing.

Pursuant to Iowa Code § 476.77(2), the proposed reorganizations shall be deemed to have been approved by operation of law unless disapproved by the Board. The statute also provides that the Board shall not disapprove a proposal for reorganization without providing for a hearing. The statute provides that a notice of hearing must be issued no later than 50 days after the proposal for reorganization has been filed. In furtherance of the investigation being conducted by the Board to review the reorganization proposal, the Board will set a date for hearing and establish a procedural schedule and deadline for intervention.

Iowa Code § 476.77(2) states "[a] proposal for reorganization shall be deemed to have been approved unless the board disapproves the proposal within 90 days after the filing." This section further provides "[t]he board, for good cause shown, may extend the deadline for acting on an application for an additional period not to exceed 90 days."

These dockets involve substantial issues. Iowa's largest rate-regulated electric utilities are proposing to transfer either ownership or control of their Iowa transmission facilities to a proposed independent transmission company. Such

proposals have potentially immense consequences, including impacts to the Board's jurisdiction, to the future operations of the transmission facilities, and to retail and wholesale electric rates. In addition, evolving standards and pronouncements from FERC make it difficult to quickly analyze the impact of the reorganizations.

Therefore, the Board on its own motion will extend the 90-day deadline for an additional 90 days and set the procedural schedule accordingly. Good cause for an extension exists. Extending the deadline 90-days results in a June 15, 2003, deadline; because this is a Sunday, the actual deadline will be June 16, 2003, pursuant to Iowa Code § 4.1(34).

The Board will also set an intervention deadline and date for filing testimony. The Board encourages any intervenors to file prefiled testimony pursuant to the schedule established. Prefiled testimony is useful to the Board, and other parties, in narrowing and focusing the issues and preparing for cross-examination at hearing. However, the failure to file testimony does not preclude intervenors from presenting testimony and exhibits at hearing.

At the present time, the Board anticipates that the consultant hired by the Board to evaluate IPL's proposed delineation, KEMA Consulting, Inc., will have completed its report on or about March 7, 2003. This will allow all parties more than sufficient time to review the report and conduct any discovery prior to hearing.

IT IS THEREFORE ORDERED:

1. The proposals for reorganization filed by Interstate Power and Light Company and MidAmerican Energy Company on December 18, 2002, are accepted as substantially complying with the filing requirements contained in 199 IAC 32.4.

2. The Utilities Board will docket each proposal for reorganization for investigation as a separate contested case proceeding, but will consolidate the proceedings for purposes of hearing and the procedural schedule. Interstate Power and Light Company's proposal will be identified as Docket No. SPU-02-21 and MidAmerican Energy Company's proposal will be identified as Docket No. SPU-02-23. The expenses reasonably attributable to these investigations shall be assessed to Interstate Power and Light Company and MidAmerican Energy Company in accordance with Iowa Code § 476.10 (2003).

3. The following procedural schedule is established:

- a. Requests to intervene shall be filed on or before March 3, 2003.
- b. Consumer Advocate and any intervenors may file prepared direct testimony, with underlying workpapers and exhibits, on or before March 7, 2003. If a party references a data request in its prepared testimony, the data request shall be filed as an exhibit.
- c. Applicants may file reply testimony, with underlying workpapers and exhibits, on or before March 21, 2003.
- d. The parties shall file a joint statement of the issues on or before April 4, 2003.

e. A hearing shall be held beginning at 9 a.m. on April 22, 2003, for the purpose of receiving testimony and the cross-examination of all testimony. The hearing shall be held in the Utilities Board's Hearing Room, 350 Maple Street, Des Moines, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

f. All parties may file simultaneous initial briefs on or before May 9, 2003.

g. All parties who filed initial briefs may file reply briefs on or before May 16, 2003.

4. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

5. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination that have not been previously filed shall become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file an original and six copies of the data request and response with the Board at the earliest possible time.

6. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the

evidentiary record will be reopened and the evidence will become part of the record five days after the evidence is filed with the Board. All evidence filed pursuant to this paragraph shall be filed no later than three days after the close of the hearing in this proceeding.

7. The 90-day time period for rendering a decision pursuant to Iowa Code § 476.77(2) is extended, for good cause, an additional 90 days to June 16, 2003.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of February, 2003.